

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

**CARL BRUCE FANNING and BRONDENA  
FANNING,** )

**Plaintiffs,** )

**v.** )

**NATIONAL CARRIERS; BRUCE NORMAN,  
JR., and ALLSTATE INSURANCE  
COMPANY, INC.** )

**Defendants.** )

**CASE NO.: 2:05-cv-01121-CSC**

**ANSWER OF RAINS & SONS, INC.**

COMES NOW Defendant **Rains & Sons, Inc.**, ("Defendant"), by and through its attorney,  
and responds to the respective counts of the Plaintiffs' Complaint as follows:

**Statement of the Parties**

1. Upon information and belief, this Defendant admits the material allegations of paragraph 1 of the Plaintiffs' Complaint. However, to the extent that paragraph 1 of the Plaintiffs' Complaint alleges any liability as to this Defendant in any particular amount, this Defendant denies the allegations of paragraph 1 of the Complaint and demands strict proof thereof.

2. Upon information and belief, this Defendant admits the material allegations of paragraph 2 of the Plaintiffs' Complaint. However, to the extent that paragraph 2 of the Plaintiffs' Complaint alleges any liability as to this Defendant in any particular amount, this Defendant denies the allegations of paragraph 2 of the Complaint and demands strict proof thereof.

3. This Defendant admits the material allegations of paragraph 3 of the Plaintiffs' Complaint. However, to the extent that paragraph 3 of the Plaintiffs' Complaint alleges any liability as to this Defendant in any particular amount, this Defendant denies the allegations of paragraph 3 of the Complaint and demands strict proof thereof.

4. This Defendant admits that Bruce Norman lived in Oklahoma City, Oklahoma. However, Mr. Norman is now deceased. To the extent that paragraph 4 of the Plaintiffs' Complaint alleges any liability against this Defendant in any particular amount, this Defendant denies the allegations of paragraph 4 of the Complaint and demands strict proof thereof.

5. This Defendant admits the material allegations of paragraph 5 of the Plaintiffs' Complaint. However, to the extent that paragraph 5 of the Plaintiffs' Complaint alleges any liability as to this Defendant in any particular amount, this Defendant denies the allegations of paragraph 5 of the Complaint and demands strict proof thereof.

6. No response is required of this Defendant to paragraph 6 of the Plaintiffs' Complaint. However, to the extent that paragraph 6 of the Plaintiffs' Complaint alleges any liability on this Defendant in any particular amount, this Defendant denies the allegations of paragraph 6 of the Complaint and demands strict proof thereof.

#### **Statement of the Facts**

7. Upon information and belief, this Defendant admits the material allegations of paragraph 7 of the Plaintiffs' Complaint. However, to the extent that paragraph 7 of the Plaintiffs' Complaint alleges any liability as to this Defendant in any particular amount, this Defendant denies the allegations of paragraph 7 of the Complaint and demands strict proof thereof.

8. Upon information and belief, this Defendant admits the material allegations of paragraph 8 of the Plaintiffs' Complaint. However, to the extent that paragraph 8 of the Plaintiffs' Complaint alleges any liability as to this Defendant in any particular amount, this Defendant denies the allegations of paragraph 8 of the Complaint and demands strict proof thereof.

9. This Defendant admits the material allegations of paragraph 9 of the Plaintiffs' Complaint. However, to the extent that paragraph 9 of the Plaintiffs' Complaint alleges any liability as to this Defendant in any particular amount, this Defendant denies the allegations of paragraph 9 of the Complaint and demands strict proof thereof.

10. Upon information and belief, this Defendant admits the material allegations of paragraph 10 of the Plaintiffs' Complaint. However, to the extent that paragraph 10 of the Plaintiffs' Complaint alleges any liability as to this Defendant in any particular amount, this Defendant denies the allegations of paragraph 10 of the Complaint and demands strict proof thereof.

11. Upon information and belief, this Defendant admits the material allegations of paragraph 11 of the Plaintiffs' Complaint. However, to the extent that paragraph 11 of the Plaintiffs' Complaint alleges any liability as to this Defendant in any particular amount, this Defendant denies the allegations of paragraph 11 of the Complaint and demands strict proof thereof.

12. Upon information and belief, this Defendant admits the material allegations of paragraph 12 of the Plaintiffs' Complaint. However, to the extent that paragraph 12 of the Plaintiffs' Complaint alleges any liability as to this Defendant in any particular amount, this Defendant denies the allegations of paragraph 12 of the Complaint and demands strict proof thereof.

13. Upon information and belief, this Defendant admits the material allegations of paragraph 13 of the Plaintiffs' Complaint. However, to the extent that paragraph 13 of the Plaintiffs'

Complaint alleges any liability as to this Defendant in any particular amount, this Defendant denies the allegations of paragraph 13 of the Complaint and demands strict proof thereof.

14. Upon information and belief, this Defendant admits the material allegations of paragraph 14 of the Plaintiffs' Complaint. However, to the extent that paragraph 14 of the Plaintiffs' Complaint alleges any liability as to this Defendant in any particular amount, this Defendant denies the allegations of paragraph 14 of the Complaint and demands strict proof thereof.

15. No response is required of this Defendant to paragraph 15 of the Plaintiffs' Complaint. However, to the extent that paragraph 15 of the Plaintiffs' Complaint alleges any liability on this Defendant in any particular amount, this Defendant denies the allegations of paragraph 15 of the Complaint and demands strict proof thereof.

16. No response is required of this Defendant to paragraph 16 of the Plaintiffs' Complaint. However, to the extent that paragraph 16 of the Plaintiffs' Complaint alleges any liability on this Defendant in any particular amount, this Defendant denies the allegations of paragraph 16 of the Complaint and demands strict proof thereof.

#### **Count I**

17. For answer to Paragraph 17 of the Complaint, this Defendant adopts and incorporates by reference its answers to Paragraphs 1-16 above.

18. This Defendant denies the material allegations of paragraph 18 of the Plaintiffs' Complaint, as stated, and demands strict proof thereof.

19. This Defendant denies the material allegations of paragraph 19 of the Plaintiffs' Complaint, as stated, and demands strict proof thereof.

20. This Defendant denies the material allegations of paragraph 20 of the Plaintiffs' Complaint, as stated, and demands strict proof thereof.

21. This Defendant denies the material allegations of paragraph 21 of the Plaintiffs' Complaint, as stated, and demands strict proof thereof.

22. This Defendant denies the material allegations of paragraph 22 of the Plaintiffs' Complaint, as stated, and demands strict proof thereof.

23. This Defendant denies the material allegations of paragraph 23 of the Plaintiffs' Complaint, as stated, and demands strict proof thereof.

### **Count II**

24. For answer to paragraph 24 of the Complaint, this Defendant adopts and incorporates by reference its answers to Paragraphs 1-23 above.

25. This Defendant denies the material allegations of paragraph 25 of the Plaintiffs' Complaint, as stated, and demands strict proof thereof.

26. This Defendant denies the material allegations of paragraph 26 of the Plaintiffs' Complaint, as stated, and demands strict proof thereof.

### **Count III**

27. For answer to paragraph 27 of the Complaint, this Defendant adopts and incorporates by reference its answers to Paragraphs 1-26 above.

28. No response is required of this Defendant to paragraph 28 of the Plaintiffs' Complaint. However, to the extent that paragraph 28 of the Plaintiffs' Complaint alleges any liability on this Defendant in any particular amount, this Defendant denies the allegations of paragraph 28 of the Complaint and demands strict proof thereof.

29. No response is required of this Defendant to paragraph 29 of the Plaintiffs' Complaint. However, to the extent that paragraph 29 of the Plaintiffs' Complaint alleges any liability on this Defendant in any particular amount, this Defendant denies the allegations of paragraph 29 of the Complaint and demands strict proof thereof.

**Count IV**

30. For answer to paragraph 30 of the Complaint, this Defendant adopts and incorporates by reference its answers to Paragraphs 1-29 above.

31. Upon information and belief, this Defendant admits the material allegations of paragraph 31 of the Plaintiffs' Complaint. However, to the extent that paragraph 31 of the Plaintiffs' Complaint alleges any liability as to this Defendant in any particular amount, this Defendant denies the allegations of paragraph 31 of the Complaint and demands strict proof thereof.

32. This Defendant denies the material allegations of paragraph 32 of the Plaintiffs' Complaint, as stated, and demands strict proof thereof.

33. This Defendant denies the material allegations of paragraph 33 of the Plaintiffs' Complaint, as stated, and demands strict proof thereof.

**Count V**

34. For answer to paragraph 34 of the Complaint, this Defendant adopts and incorporates by reference its answers to Paragraphs 1-33 above.

35. No response is required of this Defendant to paragraph 35 of the Plaintiffs' Complaint. However, to the extent that paragraph 35 of the Plaintiffs' Complaint alleges any liability on this Defendant in any particular amount, this Defendant denies the allegations of paragraph 35 of the Complaint and demands strict proof thereof.

36. No response is required of this Defendant to paragraph 36 of the Plaintiffs' Complaint. However, to the extent that paragraph 36 of the Plaintiffs' Complaint alleges any liability on this Defendant in any particular amount, this Defendant denies the allegations of paragraph 36 of the Complaint and demands strict proof thereof.

37. No response is required of this Defendant to paragraph 37 of the Plaintiffs' Complaint. However, to the extent that paragraph 37 of the Plaintiffs' Complaint alleges any liability on this Defendant in any particular amount, this Defendant denies the allegations of paragraph 37 of the Complaint and demands strict proof thereof.

38. No response is required of this Defendant to paragraph 38 of the Plaintiffs' Complaint. However, to the extent that paragraph 38 of the Plaintiffs' Complaint alleges any liability on this Defendant in any particular amount, this Defendant denies the allegations of paragraph 38 of the Complaint and demands strict proof thereof.

#### **Count VI**

39. For answer to paragraph 39 of the Complaint, this Defendant adopts and incorporates by reference its answers to Paragraphs 1-38 above.

40. No response is required of this Defendant to paragraph 40 of the Plaintiffs' Complaint. However, to the extent that paragraph 40 of the Plaintiffs' Complaint alleges any liability on this Defendant in any particular amount, this Defendant denies the allegations of paragraph 40 of the Complaint and demands strict proof thereof.

41. This Defendant denies the material allegations of paragraph 41 of the Plaintiffs' Complaint, as stated, and demands strict proof thereof.

42. This Defendant denies the material allegations of paragraph 42 of the Plaintiffs' Complaint, as stated, and demands strict proof thereof.

**Count VII**

43. For answer to paragraph 43 of the Complaint, this Defendant adopts and incorporates by reference its answers to Paragraphs 1-42 above.

44. This Defendant denies the material allegations of paragraph 46 of the Plaintiffs' Complaint, as stated, and demands strict proof thereof.

45. This Defendant denies the material allegations of paragraph 45 of the Plaintiffs' Complaint, as stated, and demands strict proof thereof.

**DEFENSES**

**FIRST DEFENSE**

46. This Defendant denies each and every other material allegation contained within the Plaintiffs' Complaint and the Defendants demand strict proof thereof.

**SECOND DEFENSE**

47. This Defendant pleads not guilty to each and every charge contained in the Plaintiffs' Complaint.

**THIRD DEFENSE**

48. This Defendant plead the general issue.

**FOURTH DEFENSE**

49. This Defendant pleads the affirmative defense of contributory negligence.

**FIFTH DEFENSE**

50. This Defendant pleads the affirmative defense of assumption of the risk.

**SIXTH DEFENSE**

51. This Defendant pleads lack of proximate cause.



**SEVENTH DEFENSE**

52. This Defendant affirmatively contends that the Plaintiffs' injuries, if any, are due to their own acts, errors, and omissions, and that no activity on the part of either of this Defendant proximately caused the injuries and damages of which the Plaintiffs complain.

**EIGHTH DEFENSE**

53. This Defendant affirmatively contends that the Plaintiffs' injuries, if any, are due to the acts, errors, and omissions of someone other than this Defendant, and that no activity on the part of either of this Defendant proximately caused the injuries and damages of which the Plaintiffs complain.

**NINTH DEFENSE**

54. To the extent that the Plaintiffs' Complaint contains a claim for punitive damages, this Defendant affirmatively aver that such a claim violates the Constitution of the United States and the Constitution of the State of Alabama.

**TENTH DEFENSE**

55. This Defendant further says that the Plaintiffs have failed to prove the nature and extent of Plaintiffs' injuries and damages, and that a valid dispute exists between the parties as to the extent of the alleged injuries suffered by Plaintiffs.

**ELEVENTH DEFENSE**

This Defendant affirmatively pleads any other matter constituting an avoidance or affirmative defense that may be applicable in this case.

**TWELFTH DEFENSE**

This Defendant reserves the right to amend this answer pending additional investigation and/or discovery.

Dated this the 7<sup>th</sup> day of December, 2006.

/s/ Robert C. Black, Jr.

ROBERT C. BLACK, JR. (ASB-6459-C62R)  
Attorney for Defendants  
National Carriers, Inc. And Bruce Norman, Jr.

OF COUNSEL:

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**CERTIFICATE OF SERVICE**

I hereby certify that I have this date electronically filed the foregoing with the Clerk of the Court of the United States District Court, for the Middle District of Alabama, Northern Division, using the CM/ECF system which will send notification of such filing to counsel listed below and by placing a copy of the foregoing upon counsel listed below in the U.S. Mail, postage prepaid, on this the 7<sup>th</sup> day of December, 2006.

Jere L. Beasley, Esq.  
Julia A. Beasley, Esq.  
**Beasley, Allen, Crow, Methvin,  
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/s/ Robert C. Black, Jr.

OF COUNSEL